

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JANICE ELAINE ABE
2563 Plaza Del Amo, Unit 403
Torrance, CA 90503

Registered Nurse License No. 342101
Respondent

Case No. 2010-361

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **March 25, 2010.**

IT IS SO ORDERED this **March 25, 2010.**



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 EDMUND G. BROWN JR.
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 LORETTA A. WEST
Deputy Attorney General
4 State Bar No. 149294
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2107
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9
10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**
12

13 In the Matter of the Accusation Against:

Case No. 2010-361

14 **JANICE ELAINE ABE**
15 **2563 Plaza Del Amo, Unit 403**
16 **Torrance, CA 90503**

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

17 **Registered Nurse License No. 342101**

18 Respondent.

19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
21 proceeding that the following matters are true:

22 **PARTIES**

23 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Interim Executive Officer of the
24 Board of Registered Nursing. She brought this action solely in her official capacity and is
25 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
26 by Loretta A. West, Deputy Attorney General.

27 2. Janice Elaine Abe (Respondent) is representing herself in this proceeding and has
28 chosen not to exercise her right to be represented by counsel.

9. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Registered Nurse License without further process.

RESERVATION

10. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board of Registered Nursing or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

1 14. In consideration of the foregoing admissions and stipulations, the parties agree that
2 the Board of Registered Nursing may, without further notice or formal proceeding, issue and
3 enter the following Order:

4 **ORDER**

5 IT IS HEREBY ORDERED that Registered Nurse License No. 342101, issued to
6 Respondent Janice Elaine Abe is surrendered and accepted by the Board of Registered Nursing.

7 15. The surrender of Respondent's Registered Nurse License and the acceptance of the
8 surrendered license by the Board shall constitute the imposition of discipline against Respondent.
9 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
10 license history with the Board.

11 16. Respondent shall lose all rights and privileges as a registered nurse in California as of
12 the effective date of the Board's Decision and Order.

13 17. Respondent shall cause to be delivered to the Board her pocket license and, if one was
14 issued, her wall license, on or before the effective date of the Decision and Order.

15 18. Respondent fully understands and agrees that if she ever files an application for
16 licensure or a petition for reinstatement in the State of California, the Board shall treat it as a
17 petition for reinstatement. Respondent must comply with all the laws, regulations and procedures
18 for reinstatement of a revoked license in effect at the time the petition is filed, and all of the
19 charges and allegations contained in Accusation No. 2010-361 shall be deemed to be true, correct
20 and admitted by Respondent when the Board determines whether to grant or deny the petition.

21 19. Upon reinstatement of the license, Respondent shall pay to the Board costs
22 associated with its investigation and enforcement pursuant to Business and Professions Code
23 section 125.3 in the amount of One Thousand Two Hundred Thirty-Four Dollars and No Cents
24 (\$1,234.00). Respondent shall be permitted to pay these costs in a payment plan approved by the
25 Board.

26 20. Should Respondent ever apply or reapply for a new license or certification, or petition
27 for reinstatement of a license, by any other health care licensing agency in the State of California,
28 all of the charges and allegations contained in Accusation, No. 2010-361 shall be deemed to be

1 true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other
2 proceeding seeking to deny or restrict licensure.

3 21. Respondent shall not apply for licensure or petition for reinstatement for two (2)
4 years from the effective date of the Board of Registered Nursing's Decision and Order.

5 22. Respondent shall pay the Board its costs of investigation and enforcement in the
6 amount of \$1,234.00 prior to issuance of a new or reinstated license.

7
8 ACCEPTANCE

9 I have carefully read the Stipulated Surrender of License and Order. I understand the
10 stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated
11 Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound
12 by the Decision and Order of the Board of Registered Nursing.

13
14 DATED: 2-11-2010

Janice Abe
15 JANICE ELAINE ABE
16 Respondent

17
18 ENDORSEMENT

19 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
20 for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

21 Dated: February 10, 2010

Respectfully submitted,

22 EDMUND G. BROWN JR.
23 Attorney General of California
24 LINDA K. SCHNEIDER
Supervising Deputy Attorney General

25
26 LORETTA A. WEST
27 Deputy Attorney General
Attorneys for Complainant

28 SD2009805166

1 true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other
2 proceeding seeking to deny or restrict licensure.

3 21. Respondent shall not apply for licensure or petition for reinstatement for two (2)
4 years from the effective date of the Board of Registered Nursing's Decision and Order.

5 22. Respondent shall pay the Board its costs of investigation and enforcement in the
6 amount of \$1,234.00 prior to issuance of a new or reinstated license.

7
8 ACCEPTANCE

9 I have carefully read the Stipulated Surrender of License and Order. I understand the
10 stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated
11 Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound
12 by the Decision and Order of the Board of Registered Nursing.

13
14 DATED: _____

JANICE ELAINE ABE
Respondent

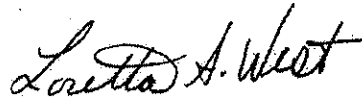
15
16
17
18 ENDORSEMENT

19 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
20 for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

21 Dated: February 10, 2010

Respectfully submitted,

22 EDMUND G. BROWN JR.
23 Attorney General of California
24 LINDA K. SCHNEIDER
Supervising Deputy Attorney General

25 
26 LORETTA A. WEST
27 Deputy Attorney General
28 Attorneys for Complainant

SD2009805166

Exhibit A

Accusation No. 2010-361

1 EDMUND G. BROWN JR.
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 LINDA K. SCHNEIDER,
Supervising Deputy Attorney General
4 State Bar No. 101336
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-3037
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No.

2010-361

12 **JANICE ELAINE ABE**
13 **2563 Plaza Del Amo, Unit 403**
14 **Torrance, CA 90503**

ACCUSATION

15 **Registered Nurse License No. 342101**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about April 30, 1982, the Board of Registered Nursing issued Registered Nurse
24 License Number 342101 to Janice Elaine Abe (Respondent). The Registered Nurse License was
25 in full force and effect at all times relevant to the charges brought herein and will expire on
26 September 30, 2011, unless renewed.

27 ///

28 ///

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after expiration.

STATUTORY PROVISIONS

6. Section 2761 of the Code states:

"(a) Unprofessional conduct, which includes, but is not limited to the following:

"....

7. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

"...."

///

///

1 8. Section 4324 of the Code provides:

2 “(a) Every person who signs the name of another, or of a fictitious person, or falsely
3 makes, alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription
4 for any drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment
5 in the state prison, or by imprisonment in the county jail for not more than one year.

6 9. Health and Safety Code section 11368 states:

7 “Every person who forges or alters a prescription or who issues or utters an altered
8 prescription, or who issues or utters a prescription bearing a forged or fictitious signature for any
9 narcotic drug, or who obtains any narcotic drug by any forged, fictitious, or altered prescription,
10 or who has in possession any narcotic drug secured by a forged, fictitious, or altered prescription,
11 shall be punished by imprisonment in the county jail for not less than six months nor more than
12 one year, or in the state prison.

13 10. Health and Safety Code section 11173 states, in pertinent part:

14 “(a) No person shall obtain or attempt to obtain controlled substances, or procure or
15 attempt to procure the administration of or prescription for controlled substances, (1) by fraud,
16 deceit, misrepresentation, or subterfuge, or (2) by the concealment of a material fact.

17 “...”

18 REGULATORY PROVISIONS

19 11. California Code of Regulations, title 16, section 1444, states:

20 “A conviction or act shall be considered to be substantially related to the qualifications,
21 functions or duties of a registered nurse if to a substantial degree it evidences the present or
22 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
23 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

24 “....

25 “(c) Theft, dishonesty, fraud, or deceit.

26 “...”

27 ///

28 ///

1 **COST RECOVERY**

2 12. Section 125.3 of the Code provides, in pertinent part, that the Board, Registrar, or
3 Director may request the administrative law judge to direct a licensee found to have committed a
4 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
5 investigation and enforcement of the case.

6 **DRUGS**

7 13. "Ambien" is a brand name for the drug Zolpidem Tartrate. Zolpidem Tartrate is a
8 non-benzodiazepine hypnotic of the imidazopyridine class. Zolpidem Tartrate is used in the
9 treatment of insomnia and is classified as a Schedule IV Controlled Substance pursuant to Health
10 and Safety Code section 11057(a) and a dangerous drug per Business and Professions Code
11 section 4022.

12 14. "Lunesta" is a brand name for the drug eszopiclone. Eszopiclone is a
13 nonbenzodiazepine hypnotic agent that is a pyrrolopyrazine derivative of the cyclopyrrolone
14 class. Eszopiclone is used in the treatment of insomnia and is classified as a Schedule IV
15 controlled substance pursuant to Health and Safety Code section 11057(a) and a dangerous drug
16 per Business and Professions Code section 4022.

17 15. "Avandia" (generically known as rosiglitazone maleate) is a diabetes medication and
18 a dangerous drug per Business and Professions Code section 4022.

19 16. "Cymbalta" (generically known as duloxetine) is an antidepressant medication and a
20 dangerous drug per Business and Professions Code section 4022.

21 17. "Desoximetasone" (generically known as desoximetasone topical) is a skin steroid
22 medication and a dangerous drug per Business and Professions Code section 4022.

23 18. "Lantus" (generically known as insulin glargine) is diabetes medication and a
24 dangerous drug under Business and Professions Code section 4022.

25 19. "Lexapro" (generically known as escitalopram) is an antidepressant medication and
26 a dangerous drug under Business and Professions Code section 4022.

27 20. "Lipitor" (generically known as atorvastatin) is a cholesterol-lowering medication
28 and a dangerous drug per Business and Professions Code section 4022.

1 21. "Lisinopril" (generic name for Prinivil, Zestril) is a high blood pressure medication
2 and a dangerous drug per Business and Professions Code section 4022.

3 22. "Novolog" (generically known as insulin aspart) is a diabetes medication and a
4 dangerous drug per Business and Professions Code section 4022.

5 23. "Sulfacetam" is an anti-infective medication and a dangerous drug per Business and
6 Professions Code section 4022.

7 24. "Symlin" (generically known as pramlintide) is a diabetes medication and a dangerous
8 drug per Business and Professions Code section 4022.

9 **CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct – Obtain Drugs Illegally)**

11 25. Respondent is subject to disciplinary action under section 2761, subdivision (a), for
12 unprofessional conduct under Code section 2762, subdivision (a), for obtaining dangerous drugs
13 and controlled substances in violation of Code section 4324, and Health and Safety Code sections
14 11368 and 11173, in that between or about June 27, 2005 and January 7, 2009, Respondent
15 forged approximately 300 prescriptions for herself. The circumstances are as follows:

16 26. On January 7, 2009, while Respondent was employed at Anaheim Regional Medical
17 Center (ARMC) as a registered nurse, she attempted to pass a forged prescription at the hospital's
18 pharmacy. The prescription was dated January 7, 2009, identified Respondent as the patient, was
19 for Lisinopril 20 mg. tablets #60, and was purportedly written by Dr. M.F. The pharmacy
20 technician at ARMC contacted Dr. M.F. who confirmed that he had not written the prescription
21 for Respondent. Respondent was terminated from ARMC's employment on January 9, 2009.

22 27. An audit at ARMC's pharmacy revealed that between or about June 27, 2005 and
23 January 7, 2009, Respondent filled approximately 300 forged prescriptions, most of which were
24 purportedly written and/or called in by Dr. W.F., M.D., for the controlled substances Ambien and
25 Lunesta, and for other dangerous drugs, such as Avandia, Lipitor, Lisinopril, Novolog,
26 Desoximetasone, Lexapro, Sulfacetam, Symlin, Cymbalta, and Lantus, among others.

27 28. Respondent had been a patient of Dr. W.F., however, Dr. W.F. did not write or
28 authorize any prescriptions for Respondent after May 13, 2005.

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 342101, issued to Janice
5 Elaine Abe Janice Elaine Abe.

6 2. Ordering Janice Elaine Abe to pay the Board of Registered Nursing the reasonable
7 costs of the investigation and enforcement of this case, pursuant to Business and Professions
8 Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.

10 DATED: 2/2/10

Louise R. Bailey
11 LOUISE R. BAILEY, M.Ed., RN
12 Interim Executive Officer
13 Board of Registered Nursing
14 Department of Consumer Affairs
State of California
Complainant

15 SD2009805166
16 80421860.doc
17
18
19
20
21
22
23
24
25
26
27
28